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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051659
Party	Plaintiff Nowlan Family Trust
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Date	09/24/2010
Attachments	Reply in Support of Motion to Compel.pdf (5 pages)(189942 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Trademark Cancellation of

Mark: BUCK ROGERS
Registration No.: 714,184
Registered: April 18, 1961

Cancellation No. 92051659

Date: September 24, 2010

-and-

Mark: BUCK ROGERS
Registration No.: 1,555,871
Registered: September 12, 1989

Nowlan Family Trust,
Petitioner,

v.

Dille Family Trust,
Registrant.

**PETITIONER'S REPLY TO REGISTRANT'S OPPOSITION TO
PETITIONER'S MOTION TO COMPEL**

Petitioner, Nowlan Family Trust, (hereinafter "Petitioner"), hereby replies to Registrant's, Dille Family Trust (hereinafter "Registrant") opposition to Petitioner's pending Motion to Compel.

In its Response, Registrant's counsel is correct in stating that Petitioner brought this cancellation because Registrant has abandoned U.S. Registration Nos,

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Certificate of Filing

I hereby certify that this correspondence is filed online via ESTTA to: Trademark Trial and Appeal Board on 9/24/2010.

9/24/2010
Date of Signature

John J. O'Malley, Esquire
John J. O'Malley, Esquire

714,184 and No, 1,555,871 and committed fraud in connection with the renewal of U.S. Registration No, 714,184.¹ Registrant claims to have a meritorious defense for its registrations yet refuses to provide answers to discovery that would enable Petitioner to verify its claims. In addition, Registrant alleges over seventy (70) years of use of its mark but is unwilling or unable to provide discovery of this information to Petitioner. The information sought by Registrant is relevant to the claims in this action and the information is only in the possession and control of Registrant.

Petitioner is seeking discoverable information from Registrant that will affirm the abandonment of Registrant's marks and fraud by Registrant. In order to avoid the production of relevant information, Registrant's counsel seeks to raise disputes and potential disputes between the parties that are outside of and not relevant to the current proceedings. Registrant's counsel also makes vague and unsubstantiated claims that the documents sought by Petitioner are not relevant to this proceeding.

Other than making broad, unfounded allegations, Registrant's counsel has not specified which document requests it considers to be irrelevant to the proceedings. The objections provided with the responses to the first set of documents requests are, for the most standard objections, and Registrant indicated documents would be produced, See Exhibit E to Petitioner's Motion. Moreover, the correspondence relied upon by Registrant's counsel (Exhibit P to Petitioner's

¹ In addition, Registrant filed a Renewal Application for Registration No. 1,555,871 after the commencement of this proceeding. Petitioner believes that Renewal application was also fraudulently filed and its Second Set of discovery is directed, in part, to that discovery.

Motion) for Registrant's further objections pertained only to objections to Petitioner's Interrogatories and Requests for Admission, not the production of documents.² Significantly, Registrant has not responded to the Second Set of discovery requests and has not raised any specific objections to answering Petitioner's second set of discovery or to producing the requested documents.

Clearly, Registrant merely seeks to delay and avoid production of documents by making vague, unfounded allegations that Petitioner is performing a fishing expedition. Likewise, Registrant has made only broad allegations against the Petitioner's document requests, and has not identified a single request that is not relevant to this matter.

Petitioner was told repeatedly that Registrant's documents would be provided and that they would be available for inspection after June 1, 2010, but instead of receiving documents, Petitioner was met with dilatory tactics and was forced to file this motion for relief. At this point, over 6 months have passed since Registrant's first discovery responses were due. Petitioner is merely working to secure the information that it was promised by Registrant and never received. This information is relevant to the issues of abandonment and fraud raised by Petitioner. Petitioner's requests are valid and reasonable and if Petitioner does not receive this information, Petitioner will be prejudiced going forward in this proceeding.

Further, Petitioner's trademark application, Registration No. 77/650,082 is blocked by the registration at issue in this proceeding. This delay is hampering

² Petitioner notes that in that letter no objections were raised regarding the production of documents pursuant to 33(d) in response to Interrogatories 5, 7, 10-14, 21, 22, 26, 27 and 35, See Exhibit D to Petitioner's Motion.

Applicant's business opportunities associated with the trademark and trademark application. Petitioner has been prejudiced by both the non-disclosure and delay in proceedings and will be at a disadvantage in its efforts to prepare for trial after wasting time, money and energy chasing Registrant for information and playing Registrant's dilatory games.

In view of the foregoing, Petitioner's June 4, 2010 Motion to Compel should be granted in its entirety

Respectfully submitted,

Nowlan Family Trust,

Dated: 9/24/2010

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, Petitioner's Reply to Registrant's Opposition to Petitioner's Motion to Compel, was served on Registrant's counsel as follows:

Maurice B. Pilosof, Esquire
1925 Century Park East, Suite 2300
Los Angeles, CA 90067
Via first class mail

Date:

9/24/2010


Melissa Doogan